

Remarks

1. Summary of Office Action

In the final Office Action mailed May 19, 2005, the Examiner rejected claims 1-8, 10-13, and 15 under 35 U.S.C. § 103(a) as being obvious over a combination of U.S. Patent No. 6,373,930 (McConnell) and U.S. Patent No. 6,785,534 (Ung). Further, the Examiner rejected claims 16-18 under 35 U.S.C. § 103(a) as being obvious over a combination of McConnell, Ung, and U.S. Patent No. 6,154,646 (Tran).

Presently pending in this application are claims 1-8, 10-13, and 15-18, of which claims 1, 7, and 13 are independent and the remainder are dependent.

2. Response to § 103 Rejections

a. Claims 1-8, 10-13, and 15

As noted above, the Examiner rejected claims 1-8, 10-13, and 15 under 35 U.S.C. § 103(a) as being obvious over a combination of McConnell and Ung. Applicants respectfully traverse these claim rejections.

Under 35 U.S.C. § 103(c), for applications filed after November 29, 1999, subject matter developed by another person, which qualifies as prior art only under 35 U.S.C. § 102(e) is not to be considered when determining whether the invention sought to be patented is obvious under 35 U.S.C. § 103, provided that the subject matter and the claimed invention were commonly owned at the time the invention was made.

Applicants respectfully submit that U.S. Patent No. 6,373,930 to McConnell qualifies as prior art only under 35 U.S.C. § 102(e). Further, Applicants submit that the presently pending application and U.S. Patent No. 6,373,930 to McConnell were, at the time the invention of the presently pending application was made, commonly owned by

Sprint Spectrum L.P. Hence, U.S. Patent No. 6,373,930 to McConnell does not qualify to be used in a rejection under 35 U.S.C § 103(a) against the claims of presently pending application. (*See* M.P.E.P. § 706.02(I)(2)(II).)

Thus, for the above reason, Applicants request the Examiner to withdraw the obviousness rejections of claims 1-8, 10-13, and 15.

b. Claims 16-18

As further noted above, the Examiner rejected claims 16-18 under 35 U.S.C. § 103(a) as being obvious over a combination of McConnell, Ung, and Tran. Applicants respectfully traverse these claim rejections.

Each of claims 16-18 depends from claim 13 and therefore incorporates all of the limitations of claim 13. As discussed above with respect to claim 13, U.S. Patent No. 6,373,930 to McConnell does not qualify to be used in a rejection under 35 U.S.C. § 103(a) against the claims of presently pending application. Thus, for at least this reason, Applicants request withdrawal of the obviousness rejections of claims 16-18.

3. Conclusion

For the foregoing reasons, Applicants submit that claims 1-8, 10-13, and 15-18 are in condition for allowance. Therefore, Applicants respectfully request favorable reconsideration and allowance of those claims.

Respectfully submitted,

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